

State of Wisconsin


LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 11/04/2008 (Per: EVM)





Appendix A

 The 2007 drafting file for LRB-4493

has been transferred to the drafting file for

2009 LRB-0646

 This cover sheet, the final request sheet, and the final version of the 2007 draft were copied on yellow paper, and returned to the original 2005 drafting file.

 The attached 2007 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the complete drafting file were transferred, as a separate appendix, to the 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

2007 DRAFTING REQUEST

Bill

Received: **08/19/2008**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Fred Risser (608) 266-1627**

By/Representing: **Dianne Cieslewicz**

This file may be shown to any legislator: **NO**

Drafter: **emueller**

May Contact:

Addl. Drafters:

Subject: **Transportation - traffic laws**

Extra Copies: **ARG**

Submit via email: **YES**

Requester's email: **Sen.Risser@legis.wisconsin.gov**

Carbon copy (CC:) to: **eric.mueller@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Bicycles passing cars and responsibility for doors opening

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	emueller 08/25/2008	bkraft 08/28/2008	nnatzke 08/28/2008		cduerst 08/28/2008		

FE Sent For:

<END>

2007 DRAFTING REQUEST

Bill

Received: 08/19/2008

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/P1	emueller	/P1 bjk 8/28	nwn 8/28	nwn 8/28			

FE Sent For:

<END>

Gary, Aaron

From: Cieslewicz, Dianne
Sent: Thursday, August 14, 2008 10:20 AM
To: Gary, Aaron
Subject: Bill Draft

8/14
- VM - Dianne 6-1627

Hi Aaron,

I left a phone message for you to give me a call but in the meantime I thought I'd also send you an e-mail.

Senator Risser would like legislation drafted to change 346.80(2)©. Basically, if you are riding a bike and a car door opens and hits you - you, the biker, will be ticketed for not "exercising due care." I will send you the letter Senator Risser received from a constituent regarding this and you may want to check today's *Isthmus*, page 6, which has a short story on this very topic.

I called you last week but apparently you were on vacation. I'm assuming you are back. You can give me a call today or tomorrow at 266-1627.

Thank you.

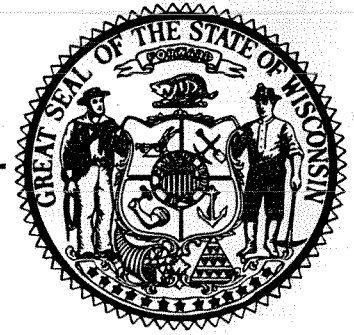
Dianne
Office of Senator Fred Risser
266-1627

Hi Aaron - 8-14-08

Here's the letter
+ response Re: the
bill Sen. Risser
would like drafted.
Give us a call
for more details.

Dianne
266-1627

FRED A. RISSE
President
Wisconsin State Senate



August 7, 2008

Linda Willsey
343 W. Wilson Street
Madison, WI 53703

Dear Linda,

Thank you for your letter regarding the accident you had when riding your bike recently. I understand your problem and concerns because I have had the same thing happen to me. A car opened its door as I passed on my bicycle causing me injury.

I will contact and send your letter to the Legislative Reference Bureau to prepare a bill draft for the next legislative session. At the very least I think cars should show the same "due care" when opening a car door.

Thank you for bringing this to my attention. I will send you a copy of the draft when it becomes available.

Most Sincerely,

A handwritten signature in dark ink, appearing to read "Fred A. Risser", is written over the typed name.

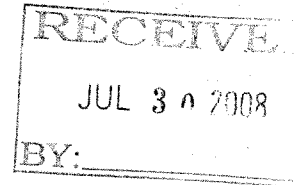
FRED A. RISSE
President
Wisconsin State Senate

FAR:dc
Copy: Karen Shevet Dinah

Linda Willsey
343 W. Wilson St.
Madison, WI 53703

July 17, 2008

The Honorable Fred Risser
Wisconsin Senate
State Capitol, Room 220 South
P.O. Box 7882
Madison, WI 53707



Dear Senator Risser,

I am writing to request your assistance in changing a state law that allows a person exiting a motor vehicle to open a car door into a bicyclist in an urban area with impunity. Yesterday, while biking home from Community Pharmacy over the lunch hour, a woman quickly opened her car door without looking in her mirror or out the window and clipped my outside right shoulder and outside right knee. I was thrown off my bike to the left and landed on my rear end, back and helmet-covered head. There was no damage to the car door and only scratches on the left pedal of my bike. While at the emergency room, where I was informed that my injuries included contusions of the right shoulder and knee and a compression fracture of the T-12 vertebra, a police officer added insult to injury by serving me with a citation for allegedly violating the following state statute:

346.80(2)(c)



(c) Any person operating a bicycle or electric personal assistive mobility device upon a roadway shall exercise due care when passing a standing or parked vehicle or a vehicle proceeding in the same direction, allowing a minimum of 3 feet between the bicycle or electric personal assistive mobility device and the vehicle, and shall give an audible signal when passing a bicycle or electric personal assistive mobility device rider proceeding in the same direction.

The owner of the parked vehicle was not cited for her failure to exercise due care when opening a vehicle door into an urban street heavily traveled by downtown bikers because there is no such law! Had I been driving a car that was similarly clipped by her door, she would have been cited as apparently there is no law designating the minimum distance between cars. Interestingly, bikers traveling in the designated bike lanes next to parked cars on many of Madison's busier streets would have to travel dangerously close to moving traffic in order to comply with s. 346.80(2)(c), Wis. Stats., if the 3 feet of clearance begins at the most protruding point of the biker's body or even the outer limits of the handlebar.

I have been a bike commuter for more than twenty years in Madison, and this is my first accident. I think I exercise good judgment when sharing the road with motor vehicles, and sometimes that means bending the official laws a bit for my own safety and to

minimize any obstruction of traffic flow. As an avid bicyclist yourself, I hope you will consider introducing legislation next session to place equal responsibility on motorists to prevent accidents caused by opening car doors into bicyclists.

Best of luck – and safe biking! – on the campaign trail this year.

Sincerely,

Linda Willsey

Cops ticket biker hit by car door

State law protects careless drivers but penalizes those they hurt

Linda Willsey saw the car door opening a split second before it hit her. She was biking down Henry Street, on her way home from work at Community Pharmacy, when someone in a parked car swung open the door without looking.

"I think I yelled 'No!'" says Willsey, as the door hit her right side. "I went into the air and landed on my back."

She was taken to the emergency room with multiple contusions and a fractured vertebra. As she was waiting to have X-rays taken, Madison police officer Jean Papalia paid a visit.

"She said, 'Gee, I'm really sorry, but I have to issue you a citation,'" recalls Willsey. The \$10 ticket cited a little-known state law that requires bicyclists passing a parked or standing vehicle to allow "a minimum of three feet" between themselves and the car.

"I don't think I was riding my bike dangerously close," says Willsey. "I was at a reasonable distance." The car, she adds, was not damaged.

Willsey plans to fight the ticket in court next week. She's already received a letter from the motorist's insurance company, citing the state law as a reason to deny any future claims. "I hadn't intended to file a claim," she says. "But I might now just to show them."

Police spokesman Mike Hanson is momen-

tarily dumbfounded when he hears about Willsey's ticket. "Wow," he says finally. "I've never heard of that."

Hanson doubts officers are regularly ticketing bicyclists who get doored. "This would be an obtuse citation."

But he notes that when a person is injured in a traffic accident, police are obligated to ticket someone, unless they get a supervisor's approval. And Hanson can't think of any law the motorist who hit Willsey violated. "There's nothing specific about opening a door."

Michael Rewey, a board member of the Bicycle Federation of Wisconsin, disagrees. He thinks the driver should have at least been cited for obstructing traffic.

"If another car got doored, there would have been some form of obstruction ticket," he says. "I don't think there's fair treatment of all modes of transportation."

The Bike Fed may lobby the state Legislature to get the law changed. Willsey has



Linda Willsey:
'I don't think
I was riding my bike
dangerously close.'

already contacted state Sen. Fred Risser (D-Madison), who wrote back that he, too, had once been hit by a car door while biking. He promised to draft a bill, writing: "At the very least I think cars should show the same 'due care' when opening a car door."

Rewey notes that some Madison bike lanes require bicyclists to pass within three feet of parked cars; in fact, he thinks many newer lanes are too close. "A lot of bike lanes are right on the edge," he says. "If you're in the bike lane and get doored, whose fault is it?"

Certainly not the impatient, barely-paying-attention drivers who fling open their doors.

Mer...

\$382, was no

"I w

open

Sen. Rissor voicemail

- bike lane w/ car parked in it
 - 3 ft regt. obsolete
 - impossible to comply
 - 3 ft regt. should be eliminated & cfr allowed to determine fault
- also when parked in bike lane car needs to watch out when opening door

pt 1

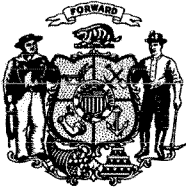
§ 346.80(2)(c)

pt 2

Sim stats. in Mn, IL

169.315

625 ILCS 5/11-1407



State of Wisconsin
2007 - 2008 LEGISLATURE

in
8/25
LRB-4493/P1✓

EVM:.....
Lbjk

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION✓
D-Note

SA✓
X-ref✓
gen. cat.
AN ACT ...; relating to: bicycles passing parked motor vehicles.✓

Analysis by the Legislative Reference Bureau

Under current law, any person operating a bicycle or electric personal assistive mobility device (EPAMD) upon a roadway must exercise due care when passing a parked vehicle or a vehicle proceeding in the same direction, allowing a minimum of three feet between the bicycle or EPAMD and the vehicle.✓

This bill retains the requirement that a person operating a bicycle or EPAMD upon a roadway exercise due care when passing a parked vehicle or a vehicle proceeding in the same direction. This bill, however, eliminates the specific requirement that the bicycle or EPAMD allow a minimum of three feet between it and the vehicle.✓

Under current law, an operator of a motor vehicle may not drive upon a bicycle lane or bicycle way except to enter a driveway, to merge into a bicycle lane before turning at an intersection, or to enter or leave a parking space located adjacent to the bicycle lane or bicycle way. Persons operating a motor vehicle upon a bicycle lane or bicycle way are required to yield the right-of-way to all bicycles and EPAMDs within the bicycle lane or bicycle way.✓

This bill prohibits a person from opening a door on a motor vehicle located on or adjacent to a bicycle lane or bicycle way unless it is reasonably safe to do so and can be done without interfering with the movement of traffic. A person who violates this prohibition may be required to forfeit not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for any subsequent conviction within a year.✓

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 346.80 (2) (c) of the statutes is amended to read:

✓ 346.80 (2) (c) Any person operating a bicycle or electric personal assistive mobility device upon a roadway shall exercise due care when passing a standing or parked vehicle or a vehicle proceeding in the same direction, ~~allowing a minimum of 3 feet between the bicycle or electric personal assistive mobility device and the vehicle,~~ and shall give an audible signal when passing a bicycle or electric personal assistive mobility device rider proceeding in the same direction.

History: 1973 c. 182; 1977 c. 208, 288; 1979 ~~197~~ 197; 1985 a. 69; 1995 a. 138; 2001 a. 90.

SECTION 2. 346.94 (12) (title) of the statutes is amended to read:

> ✓ 346.94 (12) (title) ~~DRIVING~~ ^{plain space} MOTOR VEHICLES ON OR ADJACENT TO BICYCLE LANE OR BICYCLE WAY.

History: 1973 c. 182, 314; 1975 c. 320; 1977 ~~197~~ 197; 1983 a. 56, 175, 243, 538; 1989 a. 335; 1991 a. 83, 87; 1993 a. 260; 1995 a. 131, 138, 216, 373; 1997 a. 27; 2001 a. 90; 2003 a. 26, 192; 2005 a. 118, 250; 2007 a. 11.

SECTION 3. 346.94 (12) of the statutes is renumbered 346.94 (12) (a).

History: 1973 c. 182, 314; 1975 c. 320; 1977 ~~197~~ 197; 1983 a. 56, 175, 243, 538; 1989 a. 335; 1991 a. 83, 87; 1993 a. 260; 1995 a. 131, 138, 216, 373; 1997 a. 27; 2001 a. 90; 2003 a. 26, 192; 2005 a. 118, 250; 2007 a. 11.

SECTION 4. 346.94 (12) (b) of the statutes is created to read:

✓ 346.94 (12) (b) No person may open any door on a motor vehicle located upon or adjacent to a bicycle lane or bicycle way unless it is reasonably safe to do so and can be done without interfering with the movement of other traffic.

SECTION 5. Initial applicability.

> (1) ^Δ This act first applies to violations committed on the effective date of this subsection, but does not preclude the counting of other violations as prior violations for sentencing a person. ✓

(END) ✓

Δ - Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4493/P1dn

EVM:.....

Date

Lbjk

ATTN: Dianne Cieslewicz

Please review the attached draft carefully to ensure that it is consistent with your intent. ✓

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "1" draft. ✓

Eric V. Mueller
Legislative Attorney ✓
Phone: (608) 261-7032
E-mail: eric.mueller@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4493/P1dn
EVM:bjk:wn

August 28, 2008

ATTN: Dianne Cieslewicz

Please review the attached draft carefully to ensure that it is consistent with your intent.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

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Phone: (608) 261-7032
E-mail: eric.mueller@legis.wisconsin.gov



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-4493/P1

EVM:bjk:nnw

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

- 1 **AN ACT** *to renumber* 346.94 (12); *to amend* 346.80 (2) (c) and 346.94 (12) (title);
2 and *to create* 346.94 (12) (b) of the statutes; **relating to:** bicycles passing
3 parked motor vehicles.

Analysis by the Legislative Reference Bureau

Under current law, any person operating a bicycle or electric personal assistive mobility device (EPAMD) upon a roadway must exercise due care when passing a parked vehicle or a vehicle proceeding in the same direction, allowing a minimum of three feet between the bicycle or EPAMD and the vehicle.

This bill retains the requirement that a person operating a bicycle or EPAMD upon a roadway exercise due care when passing a parked vehicle or a vehicle proceeding in the same direction. This bill, however, eliminates the specific requirement that the bicycle or EPAMD allow a minimum of three feet between it and the vehicle.

Under current law, an operator of a motor vehicle may not drive upon a bicycle lane or bicycle way except to enter a driveway, to merge into a bicycle lane before turning at an intersection, or to enter or leave a parking space located adjacent to the bicycle lane or bicycle way. Persons operating a motor vehicle upon a bicycle lane or bicycle way are required to yield the right-of-way to all bicycles and EPAMDs within the bicycle lane or bicycle way.

This bill prohibits a person from opening a door on a motor vehicle located on or adjacent to a bicycle lane or bicycle way unless it is reasonably safe to do so and can be done without interfering with the movement of traffic. A person who violates this prohibition may be required to forfeit not less than \$20 nor more than \$40 for

the first offense and not less than \$50 nor more than \$100 for any subsequent conviction within a year.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 346.80 (2) (c) of the statutes is amended to read:

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SECTION 2. 346.94 (12) (title) of the statutes is amended to read:

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(1) This act first applies to violations committed on the effective date of this subsection, but does not preclude the counting of other violations as prior violations for sentencing a person.

(END)